IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH,
AT HYDERABAD

THE HON'BLE SRI JUSTICE A. GOPAL REDDY

WRIT PETITION No. 17684 OF 2000

Date:25.07.2007

BETWEEN:

Dirbubai Deshai S/o. Dhanbhai Desai,
R/o. 4-3-314, Opp: Vijaya Bank,
Bank Street, Koti, Hyderabad.

…. PETITIONER

And

1. Municipal Corporation of Hyderabad, rep. by its Commissioner, Municipal Complex, Tank Bund, Hyderabad and another.

…. RESPONDENTS

ORDER:

By means of filing this writ petition the petitioner, who is the owner of premises bearing municipal No.4-3-314, opposite to Vijaya Bank, Bank Street, Hyderabad, invoked the inherent jurisdiction of this Court under Article 226 of the Constitution of India challenging the notice issued on behalf of the Municipal Corporation of Hyderabad calling upon him to hand over an extent of 2120 sq. yards/sq. meters in S.No.244 as per the attached plan, for the purpose of widening 100 feet road connecting highway and monumental Quli Qutub Shah Tombs and other localities, and to give his consent immediately.

The main grievance of the petitioner is that he is the owner and possessor of the land admeasuring Acs.2.10 guntas in S.No.244 (part of) Tolichowki village, Hyderabad, having purchased the same under a registered sale deed dated 24.10.1980. In the year 1986, the respondent corporation sought to acquire 769 sq. yards of his land and he has given his consent to the same since the respondent corporation paid compensation. While so, the respondent issued notice dated 03.08.2000 without disclosing that he will be paid compensation for the land which was going to be affected in road widening. It is also his grievance that even before service of notice the officials of the respondent-corporation removed the fencing wire erected by him for the protection of the land. On receipt of notice, he gave reply on 5.09.2000 offering to hand over the land provided he

was paid compensation as per the prevailing market rate as per the basic value register at Rs.2,500/- per sq. yard. There was no response to the said reply notice, but the officials of the respondent-corporation visited the place and marked the portion of the land, which was likely to be affected in road widening. Therefore, the petitioner moved this Court by way of filing the present writ petition.

None appears for the respondent-corporation, or any counter affidavit is being filed. Heard learned counsel for the petitioner.

The learned counsel for the petitioner is also not in a position to say whether the land has been taken possession pursuant to the demarcation made, and any compensation is paid in that regard.

Time and again this Court deprecated the practice of the respondent-corporation in depriving the citizens of their property without following due procedure contemplated under Sections 145, 146 and 147 of the Hyderabad Municipal Corporation Act, 1955 (for short 'the Act'), which authorizes the Commissioner to acquire any immovable property on behalf of the corporation by agreement on such terms at such rates or prices not acceding such maxim as shall be approved by the Standing Committee. Whenever the Commissioner is unable to acquire any immovable property under

Section 146 by agreement, he has to initiate land acquisition proceedings for acquisition of the same and can take possession of the property as per the procedure contemplated under the Land Acquisition Act, 1894, on issuance of such notification. But the Municipal Corporation cannot highhandedly take possession

of the land without following the procedure prescribed under the law as held by a Division Bench of this Court in 2000 (3) ALD 407. In view of the same, the respondents are directed not to forcefully take possession of the petitioner's property without following due procedure contemplated under the law.

The Writ Petition is accordingly disposed of. No costs.

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(A. Gopal Reddy, J.)

25th July, 2007
Js.